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ATTORNEYS FOR DEFENDANTS

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MONTANA

BILLINGS DIVISION

\* \* \* \* \*

MARY HUMPHREY,	)	
	)	NO. 08-17-BLG-RFC-CSO
Plaintiff,	)	
	)	
-vs-	)	DEFENDANTS' ANSWER
	)	
RICHARD J. BOUDREAU & ASSOCIATES,	)	
LLC, LVNV FUNDING, LLC,	)	
	)	
Defendants.	)	

\* \* \* \* \*

COMES NOW Richard J. Boudreau & Associates, LLC and LVNV Funding, LLC, by and through their counsel of record, and answer the Complaint filed in this matter as follows:

AFFIRMATIVE DEFENSES

1. Plaintiff's Complaint fails to state a claim against Defendants upon which relief may be granted.

2. Defendants are entitled to the bona fide error defense under the Fair Debt Collection Practices Act.

3. Defendants were not negligent and their actions conform with the standard of care applicable to this case and all applicable regulatory requirements.

4. Defendants allege that their activities conformed to the applicable laws, regulations, and industry standards.

5. Defendants are not subject to Montana's Consumer Protection Act under the facts of this case.

6. Plaintiff cannot recover damages for being upset or aggravated in breach of contract matter.

7. Plaintiff is estopped from making the claims in her Complaint.

8. Plaintiff has waived her right to make the claims in her Complaint.

9. Defendants reserve the right to add such additional and different defenses as may be appropriate upon completion of their investigation and discovery in this matter.

10. At this time the Defendants are uncertain what affirmative defense may apply if this case goes to trial. Discovery, trial preparation and the facts of the case may make some of the affirmative defenses applicable and thus they are raised in this Answer to avoid being waived. Defendants will dismiss any affirmative defenses at the pretrial conference that do not appear to be reasonably supported by the facts and/or law. The purpose of raising these affirmative defenses is not to create defenses where none exist. Instead, it is recognition that the pleadings, discovery, and trial preparation require an examination and evaluation of evolving facts and law. The decision maker, whether a judge or jury, should have available for consideration all defenses that may apply.

ANSWER

1. Paragraph 1 does not state allegations which require Defendants to admit or deny anything.

2. Defendants are without sufficient knowledge to admit the allegations in paragraph 2 and so deny.

3. Defendants admit the allegation in paragraph 3..

4. Defendants deny the allegation that LVNV Funding LLC purchases junk debt and admit the remainder of paragraph 4.

5. Defendants admit they are engaged in the collection of debts and that they can be "debt collectors" as defined in 15 U.S.C. § 1692a(6) and deny the remainder of paragraph 5.

6. Defendants admit that this court has jurisdiction over the Fair Debt Collection Practices Act claim and admits that the court has discretion to hear state law claims, and denies the remainder of paragraph 6.

7. Defendants are without sufficient knowledge to admit or deny the allegations in paragraph 7 and thus deny.

8. Defendants admit that Plaintiff had an outstanding amount due on a Sears account in the amount of \$1,439.25 and deny the remaining allegations of paragraph 8.

9. Defendants admit that Defendant LVNV Funding LLC purchased as assignment of Plaintiff's Sears debt and deny the remainder of paragraph 9.

10. Defendants admit that Exhibit 1 attached to the Complaint was mailed to Plaintiff and deny the remainder of paragraph 10 as a comment on the plain language of Exhibit 1.

11. Defendants are without sufficient knowledge to admit or deny the allegation in

paragraph 11 and so deny.

12. Defendants admit the allegations in paragraph 12.

13. Defendants admit the allegations in paragraph 13.

14. Defendants admit that Richard J. Boudreau & Associates, LLC sent the letter attached to the Complaint as Exhibit 3 and deny the remainder of paragraph 14.

15. Defendants are without sufficient knowledge to admit or deny the allegations in paragraph 15 and so deny.

16. In response to paragraph 16 Defendants incorporate their previous answers.

17. Defendants are without sufficient knowledge to admit or deny the allegations of paragraph 17 and so deny.

18. Defendants deny the allegations in paragraphs 18, 19 and 20.

19. In response to paragraph 21 Defendants incorporate their previous answers.

20. Defendants admit that in certain cases they are debt collectors as defined by the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 and deny the remainder of paragraph 22.

21. Defendants deny the allegations in paragraphs 23 and 24

22. In response to paragraph 25 Defendants incorporate their previous answers.

23. Defendants deny the allegations in paragraphs 26, 27, 28, and 29.

24. In response to paragraph 30 Defendants incorporate their previous answers.

25. Defendants are without sufficient knowledge to admit or deny the allegations in paragraph 31 and so deny same.

26. Defendants deny the allegations in paragraphs 32, 33, 35, and 36.

27. Defendants are without sufficient knowledge to admit or deny the allegations in

paragraph 34 and so deny same.

28. Any allegation in Plaintiff's Complaint not specifically admitted herein is denied.

WHEREFORE Defendants request that Plaintiff's complaint be dismissed and that they be awarded its costs and attorney fees in this matter, and such other relief as the court deems just and proper.

DATED this 10th day of March, 2008.

SMITH LAW FIRM, P.C.

By: s/ Bruce M. Spencer  
Bruce M. Spencer  
Attorney at Law

CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of March, 2008, a copy of the foregoing was served upon the following persons by the following means:

1, 2, 3, 4 CM/ECF

\_\_\_\_\_ U.S. Mail

1. Clerk, U.S. District Court
2. A. Clifford Edwards  
Edwards, Frickle, Anner-Hughes & Culver  
P.O. Box 20039  
Billings, MT 59104-0039
3. Triel D. Culver  
Edwards, Frickle, Anner-Hughes & Culver  
P.O. Box 20039  
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4. Lance A. Pedersen  
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10 West Fourth St.  
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